

State Water Resources Control Board

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JUDGE AFFIRMS WATER BOARDS \$62,000 FINES AGAINST THREE WATER RIGHTS HOLDERS IN DELTA

SACRAMENTO—Sacramento Superior Court Judge Lloyd G. Connelly today issued a ruling upholding \$62,000 in fines assessed against three water rights holders in the south Delta.

“The decision is an important affirmation of our authority and ability to protect water quality in the Delta and to enforce water quality standards,” said Tam Doduc, Board Chairwoman .

The water rights holders (Lloyd Phelps and Gary Phelps, Joey Ratto, and Ronald Conn) held permits that included Standard Term 91. Standard term 91 requires diverters to stop their water diversions whenever the Central Valley Project and State Water Project are required to limit project diversions and to release water to meet Delta water quality standards.

In each case, the board issued Notices of Curtailment of Water Diversions to the diverters. These notices required diversions to cease between June and August in 2000 and 2001. The three continued their diversions. The board issued the Administrative Civil Liabilities, which the court today upheld.

In reaching its decision, the court rejected petitioners’ arguments that they were denied a fair hearing. The court also rejected an effort by the petitioners to attack Term 91. The court said that any challenge to Term 91 had to come, at the latest, within 30 days of the term being included in petitioners’ water rights permits. Even though a challenge to Term 91 was time-barred, the court found that the Water Board had appropriately included Term 91 to protect the public interest and to carry out Delta water quality standards. The court also rejected arguments that the Board violated the *Delta Protection and Watershed Protection Acts*, that the petitioners had riparian and/or pre-1914 water rights, and that the penalty was excessive.

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